

## United States District Court

SOUTHERN

DISTRICT OF

TEXAS

SEP - 1 2016

McALLEN DIVISION

David J. Bradley, Clerk

UNITED STATES OF AMERICA

V.

## CRIMINAL COMPLAINT

Herbert Franklin Garza

Principal

Case Number:

YOB: 1974

United States

M-16-1611-M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 30, 2016 in Starr County, in the Southern District of Texas defendants(s) did,  
(Track Statutory Language of Offense)

knowing or in reckless disregard of the fact that Maria De Los Angeles Galicia-Aguilar and Juan Carlos Florian-Perez citizens and nationals of Guatemala, along with five (5) other undocumented aliens, for a total of seven (7), who had entered the United States in violation of law, concealed, harbored or shielded from detection or attempt to conceal, harbor, or shield from detection such aliens in any place, including any building or means of transportation,

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(iii) FELONY

I further state that I am a(n) U.S. Senior Border Patrol Agent and that this complaint is based on the following facts:

On August 23, 2016, Rio Grande City Border Patrol Agents conducted an interview with an illegal alien who was apprehended in an apartment with fourteen other illegal aliens. The apartment complex is located on Sebastian Street in Roma, Texas in close proximity to the Rio Grande River. During the interview, the illegal alien identified, Herbert Franklin GARZA, through a photo lineup as the person who had harbored her group.

On August 30, 2016, Rio Grande City Border Patrol Agents conducted surveillance on Sebastian Street near the apartment complex identified by the person interviewed. Agents observed Herbert Franklin GARZA, wearing a red shirt and shorts, exiting the apartment complex and walk south across Sebastian Street to a van parked in an empty lot. Simultaneously, agents observed several people run to GARZA and squat down next to him.

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Approved Torah Leonard  
Sworn to before me and subscribed in my presence,

September 1, 2016  
Date

Peter E. Ormsby, U. S. Magistrate Judge  
Name and Title of Judicial Officer

[Signature]  
Signature of Complainant

Jon M. Chan Senior Patrol Agent  
Printed Name of Complainant

McAllen, Texas  
City and State

[Signature]  
Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN, TEXAS**

**ATTACHMENT TO CRIMINAL COMPLAINT:**

**M-16-1611-M**

**RE: Herbert Franklin Garza**

**CONTINUATION:**

GARZA then appeared to be giving the people instructions. Shortly after, GARZA was seen walking back north across Sebastian Street towards the apartment complex, accompanied by a female. Minutes later, agents observed two more individuals run north towards the apartment complex. Agents then observed what appeared to be a flashlight signal to the people, who then stood up and walked across Sebastian Street to the apartment complex. Agents advised the surrounding agents to converge on the apartment complex.

When responding agents arrived, they observed several people running in the apartment complex back towards Sebastian Street. Agents apprehended a total of seven people. The people were questioned regarding their immigration status to which all stated to be illegally present in the United States.

Agents, along with Department of Public Safety Troopers, made contact with GARZA. The agents conducting surveillance identified GARZA as the person who assisted the people to the apartment complex.

All subjects, including GARZA, were placed under arrest and transported to the Rio Grande City Border Patrol Station for processing.

**Principal Statement:**

Herbert Franklin GARZA was advised of his Miranda Rights, stated he understood his rights and agreed to answer questions without the presence of an attorney.

GARZA stated he was involved in human smuggling and was going to be paid 100.00 USD per person. GARZA claimed his role was to make sure the illegal aliens made it into the last apartment. GARZA stated he has done this at least twenty-six times before and was involved with the group of sixteen illegal aliens that were apprehended by Border Patrol the day before.

**Material Witness Statements:**

Maria de Los Angeles GALICIA-Aguilar and Juan Carlos FLORIAN-Perez, both citizens and nationals of Guatemala, were advised of their Miranda Rights, stated they understood their rights and agreed to answer questions without the presence of an attorney.

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**CONTINUATION:**

**Material Witness 1:**

Maria de Los Angeles GALICIA-Aguilar claimed her mother in law made her smuggling arrangements and was unsure how much she paid. GALICIA stated she crossed the Rio Grande River on a raft with a group of people and was instructed to run up to the street and someone would be coming for her. Once GALICIA reached the street, she was met by a man wearing a red shirt, who instructed her to follow him and led her to a small house. The man then instructed GALICIA to get inside and hide.

GALICIA identified Herbert Franklin GARZA in a photo lineup as person who met her at the street and led her to the apartment complex where she was apprehended.

**Material Witness 2:**

Juan Carlos FLORIAN-Perez claimed he made his smuggling arrangements with an unknown smuggler and has already paid 2,000 USD of the 6,000 USD he agreed to pay. FLORIAN stated he was instructed by the foot guide to run up to the street and a man would be waiting for him. FLORIAN claimed the foot guide gave a description of the man and what he was wearing. Once FLORIAN reached the street, he saw a man matching the description given to him by the foot guide. FLORIAN stated the man instructed the group to cross the street two at a time, so they would look like normal people crossing the street. Once across the street, the man instructed the group to go inside a house but before the group could make it inside, Border Patrol arrived.

FLORIAN identified Herbert Franklin GARZA in a photo lineup as the person who met the group at the street and told him to go into a house.